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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 UNITED STATES OF AMERICA

v.

21 CR 379 (VSB)
Conference

5 CARLOS ORENSE AZOCAR

6 Defendant
7 -----x

8 New York, N.Y.
9 July 7, 2022
10 3:00 p.m.

11 Before:

12 HON. VERNON S. BRODERICK
District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS
United States Attorney for the
15 Southern District of New York
16 KYLE A. WIRSHBA
Assistant United States Attorney

17 FOY & SEPLOWITZ LLC
18 Attorneys for Defendant
JASON FOY
ERIC SARRAGA

19 ALSO PRESENT: Jill Hoskins, Interpreter (Spanish)

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1 (In open court)

2 THE COURT: If I could ask counsel to please identify
3 themselves for the record.

4 MR. WIRSHBA: Good afternoon, your Honor.

5 Kyle Wirshba for the government.

6 THE COURT: Good afternoon.

7 MR. FOY: May it please the Court, Jason Foy for
8 Mr. Carlos Orense Azocar.

9 Also with me at counsel table is associate counsel
10 Eric Sarraga.

11 We also have a family member who traveled from Miami
12 to be here today in support of Mr. Azocar.

13 THE COURT: Thank you.

14 Good afternoon, Mr. Azocar.

15 THE DEFENDANT: Good afternoon.

16 THE COURT: Can you hear and understand the
17 interpreter?

18 THE DEFENDANT: Absolutely.

19 THE COURT: If at any point in time the equipment
20 malfunctions or you don't understand something, just raise your
21 hand and we'll try and fix the issue. Okay?

22 THE DEFENDANT: Thank you.

23 THE COURT: Mr. Wirshba, I understand from the docket
24 that Mr. Azocar was arraigned on the indictment before Judge
25 Figueredo. Is that correct?

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1 MR. WIRSHBA: That is correct, your Honor.

2 THE COURT: I know Mr. Azocar was extradited. Is that
3 correct?

4 MR. WIRSHBA: That's also correct, your Honor.

5 THE COURT: The initial presentment was 6/23. So has
6 the time between then and now run from the speedy trial clock?

7 MR. WIRSHBA: Not completely, your Honor. There was
8 an intermediate date that was set. I believe it ran last week.
9 We did not seek an extension of that time, but we certainly
10 plan to today.

11 THE COURT: Fine. So what's the status of discovery?

12 MR. WIRSHBA: Your Honor, at this time, the government
13 has not produced discovery. We've been in touch with defense
14 counsel, and I would defer to him on a proposal.

15 THE COURT: Sure. Mr. Foy.

16 MR. FOY: Yes, your Honor.

17 We're asking that production of discovery be slightly
18 delayed because there may or may not be a change of counsel.
19 There are some issues that Mr. Azocar is trying to work through
20 to see if he can get the counsel of his choice, who I've been
21 in contact with and been communicating with. He needs a couple
22 more weeks to see if that's possible because he's been in the
23 custody of Italy for over a year, and he's got to rely on other
24 people to help him out with the situation. Although my client
25 is optimistic it's going to happen, there's a good chance it

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1 could not happen, and then I will, in fact, be ready to take on
2 the case.

3 In the meantime, what we're really going to ask for,
4 your Honor, is to give us 45 days to report back to you about
5 where we are with things with the hope that we could have a
6 date to come back sometime in September or a date that's
7 appropriate for the Court. By then, we should kind of know
8 what track we're going to be on.

9 We're still going to do our due diligence to be
10 prepared in the event we're going to take it for the long haul
11 so we're not losing time. We're making efforts to do that.
12 There's enough information available for us to review to make
13 good use of the time while we try to figure logistics out, and,
14 of course, how we're going to approach the government moving
15 forward.

16 THE COURT: Okay. I think that's fine.

17 Ms. Rodriguez, a date 45 days out?

18 DEPUTY CLERK: August 22 at 2:00 p.m.

19 MR. WIRSHBA: That's fine for the government.

20 THE COURT: Mr. Foy?

21 MR. FOY: That's good.

22 THE COURT: First, I'm going to exclude the time
23 between now and August 22 at 2:00 p.m. from the time in which
24 Mr. Azocar would have to be brought to trial. I find that that
25 exclusion outweighs the interest of the public and Mr. Azocar

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1 in a speedy trial. That time is necessary for Mr. Azocar to
2 pursue whether he is going to retain counsel, to allow the
3 government to -- and, Mr. Wirshba, what I would ask is get the
4 stuff ready.

5 MR. WIRSHBA: Of course.

6 THE COURT: You may already have it ready to go. By
7 "stuff," I mean discovery.

8 MR. WIRSHBA: I think a significant amount of it is
9 ready to go, your Honor.

10 I will also say Mr. Foy was not just saying that they
11 were doing work to prepare. We've been in touch multiple
12 times, and, in fact, Mr. Foy has already provided me a hard
13 drive for me to load with what is relatively significant
14 electronic discovery in this case.

15 THE COURT: I would imagine that there were materials
16 submitted in the extradition package, which probably contains a
17 fair amount of things related to the case. I don't know if
18 that's what the package consists of, but that's fine.

19 MR. WIRSHBA: Your Honor, as I've shared with defense
20 counsel, there were search warrant returns for electronic
21 accounts in this case, and pursuant to an MLAT, the government
22 has also received materials from Italy, including electronic
23 materials. So there is relatively voluminous discovery here,
24 and the government is collecting it as your Honor speaks.

25 THE COURT: In addition to the time for Mr. Azocar to

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allow him to pursue counsel, it will allow Mr. Foy and Mr. Azocar time to review the materials and to determine -- I guess review the materials and eventually speak to their client, and if it turns out someone else appears, transfer whatever the work product is over to the new attorney.

I should say, and, Mr. Azocar, you probably have already been informed of this, but you're entitled to an attorney regardless of whether or not you're able to retain an attorney. And so if you are not able to find an attorney because of finances, as Mr. Foy has mentioned, he and Mr. Sarraga would continue to represent you, okay?

THE DEFENDANT: (Nods)

THE COURT: Okay. Now, I'm not sure, so I received -- and the next thing I'm going to address is I received from Inner City Press a request for the financial affidavit.

MR. FOY: Yes, and you directed us to answer by today. So instead of using resources in briefing to oppose it, with your permission, I'd like to make an oral --

THE COURT: Sure.

MR. FOY: -- statement about the application.

I've reviewed the case law referenced in the application. Although I would normally oppose it, because I know what's in the affidavit, it doesn't make sense for me to oppose it at this point. So if your Honor wants to unseal it,

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1 that's fine. My understanding is that the person who made the
2 application was present when I explained why there wasn't much
3 information included. So if he wants to see a blank piece of
4 paper with a signature, he can.

5 THE COURT: Okay, that's fine.

6 Any objection from the government?

7 MR. WIRSHBA: The government takes no position on the
8 application, your Honor.

9 THE COURT: All right. So I'm going to direct that
10 the financial affidavit be unsealed. To the extent that the
11 Inner City Press, that Mr. Lee -- since it sounds like he's
12 already aware of the comments about it, I assume it was before
13 Judge Figueiredo where the material was presented to her and you
14 made your statement at that time, so I'm going to unseal it,
15 and then we'll just move on, and I'll see the parties on
16 August 22.

17 Is there anything else that we need to deal with today
18 from the government's perspective?

19 MR. WIRSHBA: No, your Honor.

20 THE COURT: Mr. Foy, from the defense?

21 MR. FOY: Yes. One other thing with regard to my
22 client's medical condition.

23 THE COURT: Okay.

24 MR. FOY: When I first appeared with him on June 23,
25 of course, he was just new to the district and hadn't been

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1 provided his medication. He has a number of medical issues.
2 Since then, he has been provided with some of his medication
3 that's necessary to deal with his medical issues, but
4 apparently the medication as it relates to a prostate condition
5 and circulation hasn't been provided to him.

6 He's faring okay now, but I want, you know, MDC to
7 provide him with all the medical care necessary to deal with
8 the prostate and the issue with his circulation. I believe he
9 was prescribed Tessalon -- and I can't read my writing of what
10 the other drug is right now. Oxwell (ph) is the other
11 medication that goes with the prostate? You know, he wants to
12 make sure he's still getting the medication that he needs.

13 THE COURT: Sure. And if you want, I have no -- had
14 Judge Figueredo filled out any -- I didn't see, they don't
15 often appear on the docket, but was there a medical order?

16 MR. FOY: At that time no, because he had just gotten
17 here, and I figured let me see what happens, give them a chance
18 to execute. But it hasn't been fully executed, so that's why
19 I'm mentioning it to your Honor.

20 THE COURT: That's fine. If you provide to my
21 chambers inbox the information. You know, I don't know how
22 they verify -- well, I don't know. Did certain of the
23 medication come with him? In other words, was it transported
24 with Mr. Azocar from Italy?

25 MR. FOY: I don't know the answer to that.

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1 THE COURT: Okay.

2 MR. WIRSHBA: I believe some of it was, your Honor,
3 and it was provided to the Bureau of Prisons. I don't know
4 which particular medications.

5 THE COURT: If you provide me with the information, I
6 can indicate to them that although provided with some of the
7 medications, there's still two that need to be provided, look
8 into that, and provide the medication as needed.

9 MR. FOY: I will definitely look into that and do a
10 letter to your Honor.

11 THE COURT: That's fine. I don't know necessarily
12 whether -- obviously, Mr. Azocar had a prescription for it. I
13 don't know whether they need to see that prescription. I don't
14 know internally how it works, but I'm sure they'll let us know
15 if they need something, a prescription or some documentation
16 from Italy.

17 MR. FOY: Thank you.

18 THE COURT: Thank you very much.

19 All right. I'll see everybody on August 22. Mr.
20 Azocar, I'll see you on the 22nd of August.

21 THE DEFENDANT: Thank you.

22 THE COURT: Thank you very much. We'll stand
23 adjourned.

24 MR. WIRSHBA: Thank you, your Honor.

25 (Adjourned)